

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)
)
vs.) Criminal Action
)
HERZZON SANDOVAL,) No. 15-10338-FDS
EDWIN GUZMAN,)
CESAR MARTINEZ,)
ERICK ARGUETA LARIOS,)
Defendants)

BEFORE: THE HONORABLE F. DENNIS SAYLOR, IV

JURY TRIAL DAY 11

John Joseph Moakley United States Courthouse
Courtroom No. 2
1 Courthouse Way
Boston, MA 02210

February 13, 2018
8:34 a.m.

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Official Court Reporter
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JOSE HERNANDEZ MIGUEL

By Mr. Murphy

7

By Mr. Lopez

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EXHIBITSFOR I.D.IN EVIDENCE

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1 PROCEEDINGS

2 THE CLERK: All rise. Thank you. You may be seated.
3 Court is now back in session.

4 THE COURT: Good morning, everyone. As I'm sure
5 you're aware, this morning's *Globe*, both print and
6 electronically, has a lead story essentially on this case and
7 on the individual that we've referred to as CW-1 or Pelon.

8 What I propose to do is to ask any of the jurors
9 whether they've seen it or were exposed to it. If someone
08:34AM 10 indicates yes, talk to them at sidebar and see where that goes
11 and otherwise remind people of their obligation to disregard
12 the media.

13 Is there anything else on that issue that anyone wants
14 me to do? Mr. Lopez.

15 MR. LOPEZ: You're going to specifically ask them
16 about *The Globe*?

17 THE COURT: Well, I think I have to, yes. I was going
18 to ask them as a group, has anyone seen the story in *The Globe*
19 this morning? If someone raises their hand, I'll say, Okay,
08:34AM 20 see you at sidebar; if they say no, I'll remind them, take it
21 from there.

22 As you're probably aware, there's not a whole lot in
23 here, you know, that hasn't been in evidence at trial, but
24 there are some things, obviously, and they aren't supposed to
25 read it, and I'll make inquiry.

1 Anything else, Mr. Pohl?

2 MR. POHL: I think, Judge, I brought a copy of the
3 article. I think I would just pass --

4 THE COURT: To pass it out to the jurors to make sure
5 they've read it?

6 (Laughter)

7 MR. POHL: If I think though that it should be marked
8 for identification and kept in the file because I think it's
9 relevant to issues from this trial concerning the State of the
08:35AM 10 Union address and the C-Span round table. I think it is
11 relevant to have that be part of the record on appeal.

12 THE COURT: I think that's fine. We're up to
13 Exhibit G?

14 THE CLERK: Yes, Judge.

15 THE COURT: That will be marked as Exhibit G.

16 (Exhibit G was marked for identification.)

17 THE COURT: Okay. Anything from the defense? All
18 right. We will get started as soon as we have our witness and
19 our jurors.

08:35AM 20 THE CLERK: All rise.

21 (A recess was taken.)

22 THE CLERK: All rise for the jury.

23 (JURORS ENTERED THE COURTROOM.)

24 THE CLERK: Thank you. You may be seated. Court is
25 now back in session.

1 THE COURT: All right. Good morning, everyone.

2 Apparently we had an issue with the commute rail, which is one
3 of the things we have to deal with if you live in Boston.

4 Before we get started, ladies and gentlemen, there was
5 an article this morning in the Boston Globe, both in paper and
6 online, about -- basically about this case or MS-13.

7 Did any of you see it or read it? Everyone is shaking
8 their head. Let me remind you again that you are not to read
9 anything like that. If you are interested, you can have
09:14AM 10 someone set aside the article in paper form, or you can
11 probably find it electronically after the trial, but again,
12 during the trial, it's important that you not expose yourself
13 to media reports.

14 THE COURT: All right. Mr. Murphy, are you ready?

15 MR. MURPHY: May I proceed, your Honor?

16 THE COURT: Yes.

17 And do you understand, sir, that you're still under
18 oath?

19 THE WITNESS: Yes.

09:15AM 20 THE COURT: Mr. Murphy.

21 MR. MURPHY: Your Honor, may we display the chalk that
22 I was using at the end of the day on the document camera?

23 THE COURT: Yes.

24 MR. MURPHY: I can proceed without it, your Honor.

25 THE COURT: Okay. Is it possible to reboot?

1 THE CLERK: I did this morning, but I can do it again.

2 THE COURT: Why don't you proceed, Mr. Murphy, while
3 we're fiddling with this.

4 MR. MURPHY: Thank you.

5 JOSE HERNANDEZ MIGUEL, RESUMED

6 CROSS-EXAMINATION, CONTINUED

7 BY MR. MURPHY:

8 Q. So when we broke yesterday, we were talking about the
9 events of May 12, 2013. Do you recall that, sir?

09:16AM 10 A. Yes.

11 Q. And after Brujo called you from the park, Pelon called
12 Domingo and told him that you were going to pick him up and
13 that he should bring a knife, correct?

14 A. I don't recall if Pelon was the one that called Domingo.
15 I know a call went out. I don't remember if it was myself that
16 made the call or Pelon.

17 MR. MURPHY: Your Honor, may I approach and do it the
18 old fashioned way in light of the document camera?

19 THE COURT: Yes.

09:17AM 20 MR. MURPHY: So, Ms. Huacuja, I'd ask you to read that
21 sentence to the witness in Spanish, please.

22 (Interpreter interpreted in Spanish.)

23 Q. And, sir, does that help you remember that it was Pelon
24 who called Domingo and told him to bring the knife?

25 A. I don't recall that Pelon called him. The call went out,

1 and it was either I called or Pelon called, but I don't recall
2 Pelon calling because he was driving.

3 Q. I'm sorry, I couldn't hear.

4 A. He was driving.

5 Q. You did tell the FBI and Mr. Pohl and the other folks that
6 you met with on July 15, 2016 that it was Pelon who made the
7 call, correct?

8 A. I don't recall.

9 Q. You recall, sir, that that's what the report states,
09:18AM 10 however, correct?

11 A. That's what the report says.

12 Q. And either you or Pelon told Domingo to bring the knife,
13 correct?

14 A. To Domingo?

15 Q. Yes.

16 A. Yes.

17 Q. So either one of you did tell him, you agree, to bring the
18 knife that day, correct?

19 A. Yes.

09:19AM 20 Q. And then you went to Highland Park in Chelsea, correct?

21 A. Yes.

22 Q. And you told us that after the folks you've identified as
23 chavalas saw you, they ran, correct?

24 A. No, not when they saw us. We got into like the front of
25 the park. When they saw us, they stood up, and one of them

1 moved forward sort of like telling the others to attack me, and
2 that's when I said La Mara Salvatrucha.

3 Q. And, sir, there came a time that morning when the
4 18th Street members who were there saw that Domingo was
5 attempting to pull out a knife and then fled, correct?

6 A. Yes.

7 Q. And when that happened, sir, one 18th Street member ran
8 towards the park's parking lot, but Pelon grabbed him and
9 started beating him, correct?

09:21AM 10 A. No, I don't recall Pelon hitting him. He was the last one
11 to come towards the park, and he was the last one to get out of
12 the car.

13 Q. Well, sir, when you met with the FBI and Mr. Pohl and the
14 State Police on July 15, 2016, what you told them was that one
15 18th Street member ran towards the park's parking lot, but
16 Pelon grabbed him and started beating him. Isn't that correct,
17 sir, that's what you told the FBI on that day?

18 A. I don't recall having said that Pelon grabbed him.

19 MR. MURPHY: May I approach, your Honor?

09:22AM 20 THE COURT: Yes.

21 MR. MURPHY: And with the Court's permission, I'd ask
22 Ms. Huacuja to read that sentence in Spanish to the witness,
23 beginning with 1.

24 Q. And, sir, does reading that help you remember that what
25 you said was that one 18th Street member ran towards the park's

1 parking lot, but Pelon grabbed him and started beating him?

2 A. I don't recall having said that Pelon grabbed him.

3 Q. But you agree, sir, that that's what the report states,
4 correct?

5 A. That's what the report says.

6 Q. And you agree, sir, don't you, that you took Domingo's
7 knife and stabbed the 18th Street member while Pelon held him
8 down?

9 A. I never saw Pelon there, and I never saw Pelon holding the
09:23AM 10 18 there. I did stab the 18.

11 Q. You told the State Police and the FBI and Mr. Pohl on
12 July 15, 2016, did you not, sir, that Pelon held the 18th
13 Street member down while you stabbed him?

14 A. Not that I recall.

15 MR. MURPHY: May I approach, your Honor?

16 THE COURT: Yes.

17 MR. MURPHY: And with the Court's permission, I'd ask
18 Ms. Huacuja to read the sentence that begins with "Hernandez
19 Miguel."

09:24AM 20 Q. And, sir, does that help you remember that on July 15,
21 2016, what you told the FBI and the State Police and Mr. Pohl
22 was that you took Domingo's knife and stabbed the 18th Street
23 member while Pelon held him down?

24 A. I don't remember ever saying that I stabbed the 18 while
25 Pelon was holding him because the 18th was on the floor. He

1 was on the ground almost under a car like he was trying to get
2 under the car. How was Pelon going to be holding him under the
3 car?

4 Q. Sir, you agree though that that's what the report states,
5 that Pelon was holding him down while you were stabbing him,
6 correct?

7 A. That's what the report says.

8 Q. Thank you, sir. Now, let me turn to a different subject,
9 the subject of a clique gun. Now, you testified that you
09:26AM 10 recall that Mr. Larios, Lobo, had the gun taken away from him
11 by the police in January of 2015, correct?

12 A. Yes.

13 Q. And before that, at some point in 2014, an individual
14 named Tigre had the clique gun, correct?

15 A. That was not the clique gun. That was Tigre's gun.

16 Q. Well, haven't you said, sir, that Tigre accidentally shot
17 off the clique gun in a car in 2014, sir? Wasn't that your
18 testimony on direct examination?

19 A. It wasn't the clique gun, it belonged to Tigre, but the
09:27AM 20 clique did take it from him, that's correct.

21 Q. And that was because, sir, that he had accidentally shot
22 the gun inside a car, correct?

23 A. And he was also drunk.

24 Q. When he was drunk, correct?

25 A. Yes.

1 Q. And he had almost hit someone named Vincentino, correct?

2 A. Yes.

3 MR. MURPHY: And I don't know, your Honor, whether the
4 camera would work for exhibits that have been admitted.

5 THE CLERK: We can try it.

6 MR. MURPHY: We can try it. I'd ask that Exhibit 10
7 which is in evidence be displayed.

8 THE COURT: Okay. It's working.

9 MR. MURPHY: Thank you, your Honor.

09:28AM 10 Q. And looking at Exhibit 10, sir, who is that?

11 A. Vincentino.

12 Q. And so Vincentino's gun was taken away from him because he
13 had shot it in a car while he was drunk, correct? I'm sorry,
14 let me ask a different question.

15 A. Vincentino did not have a gun.

16 Q. Vincentino was the person who was almost shot, correct?

17 A. Yes.

18 Q. The person who shot the gun accidentally while drunk was
19 Tigre, correct?

09:29AM 20 A. Yes.

21 Q. And if we could look at Exhibit 7. That's Tigre, correct?

22 A. Yes.

23 Q. And is it fair to say that Tigre had a drinking problem,
24 sir?

25 A. I don't know.

1 Q. Well, he was drunk when he shot the gun in the car in
2 2014, correct?

3 A. Yes.

4 Q. And on direct examination, you testified about a clique
5 meeting that took place in 2015 where he was corrected, I think
6 was your word, for having fallen off the wagon, correct?

7 A. Yes.

8 Q. And we saw a video that was in the dark of him actually
9 being corrected, correct?

09:30AM 10 A. Yes.

11 Q. And he had been corrected, to use your word, because he
12 had fallen off the wagon, correct?

13 A. Yes.

14 Q. He had been ordered by the clique not to drink, correct?

15 A. Yes.

16 Q. But he drank anyway, correct?

17 A. Yes.

18 Q. Now, after the clique -- after the gun was taken away from
19 Tigre because he shot it when he was drunk in the car, it went
09:31AM 20 to Mr. Larios, correct?

21 THE INTERPRETER: The gun?

22 MR. MURPHY: The gun, yes.

23 A. The runners passed it over to him.

24 Q. Fair enough, sir. And it was taken away from him in
25 January 2015?

1 A. Yes.

2 Q. And he was asked about the circumstances of it being taken
3 away from him at a clique meeting in February 2015 that we
4 talked about yesterday?

5 A. Yes.

6 Q. And there was more conversation about the clique gun at a
7 clique meeting in March, sir; isn't that correct?

8 A. Yes.

9 MR. MURPHY: And if we could go to what's been marked
09:32AM 10 in evidence as Exhibit 24.

11 Q. Would you look at the first page. And that's a transcript
12 that you testified about on direct examination of a clique
13 meeting that took place on March 29, 2015, correct?

14 A. Yes.

15 Q. And if we turn to page 6, you'd agree, sir, that there was
16 a discussion at that clique meeting about the clique gun,
17 correct?

18 A. Yes.

19 Q. The police had taken it, correct?

09:33AM 20 A. Yes.

21 Q. And no one had yet replaced it, correct?

22 A. Yes.

23 Q. And there was a discussion about gathering money for a
24 clique gun, correct?

25 A. Yes.

1 Q. But Mr. Sandoval said it's more important to raise money
2 to bring someone back into the country than it was to gather
3 money for a clique gun, correct?

4 A. Yes, but he also said that Lobo had to pay for the gun on
5 his own.

6 Q. Because he was the one who had lost it to the police,
7 correct?

8 A. Yes.

9 Q. Now, there was another discussion about the clique gun at
09:34AM 10 a clique meeting in October, correct?

11 A. Yes.

12 Q. And that was on October 28th, if we take a look at
13 Exhibit 28?

14 A. Yes.

15 Q. And so that's more than 10 months after the gun had been
16 taken from Mr. Larios?

17 A. Yes.

18 Q. Still no clique gun, correct?

19 A. Not yet.

09:35AM 20 Q. And Mr. Larios had brought a clique gun, had brought a
21 gun, but it didn't have a clip, correct?

22 A. Yes.

23 Q. And you thought that showed a lack of respect, correct?

24 A. Yes.

25 Q. And what does it mean for a gun not to have a clip, sir?

1 A. Well, if it has no clip where are you going to put the
2 shots?

3 Q. So it doesn't work without a clip, correct?

4 A. It doesn't work.

5 (Witness spoke in Spanish that was not translated.)

6 MR. MURPHY: With respect to your Honor, I do not
7 believe there was a question pending.

8 THE COURT: All right. Go ahead. Put another
9 question.

09:36AM 10 Q. You got a gun for the clique in December of 2015, correct?

11 THE INTERPRETER: Could you explain to the interpreter
12 who do you refer to as "you."

13 Q. You, sir, got a gun for the clique in September of 2015?

14 A. I didn't get a gun for the clique. It was Negro that got
15 it.

16 Q. And you came to hold that gun, correct?

17 A. Yes.

18 Q. And the reason that gun was obtained was because the
19 members of ESLS wanted to protect themselves from members of
09:37AM 20 the Everett clique because members of the Everett clique were
21 upset with ESLS for refusing to join the East Coast Program?

22 A. It wasn't only for that. It was also because there was no
23 weapon and the dudes were asking for a gun.

24 Q. And you talked to the FBI and the State Police about that
25 gun on May 31, 2016, correct?

1 A. Yes.

2 Q. And what you told the agents and the officers present was
3 that the gun was purchased by and belongs to the ELS clique,
4 the gun was purchased by ESLS for members to protect themselves
5 from members of the Everett Loco Salvatrucha MS-13 clique,
6 members of the ELS were upset with ESLS for refusing to follow
7 the MS-13 East Coast Program; that's what you told the police?

8 THE INTERPRETER: May the interpreter --

9 MR. MURPHY: Oh, certainly. May I approach, your
09:39AM 10 Honor?

11 THE COURT: Yes.

12 Q. That, sir, is what you told the State Police and the FBI
13 and the U.S. Attorney's Office on May 19, 2016, correct?

14 A. Yes.

15 Q. Now, on direct examination, sir, to switch to another
16 topic, Mr. Pohl asked you questions about the shooting in
17 Chelsea in December 2014. Do you recall that?

18 A. I don't understand the question.

19 Q. Do you recall, sir, being asked about an event where a gun
09:40AM 20 was brought to Vida Loca?

21 A. Yes.

22 Q. And that was in December 2014, sir?

23 A. Yes.

24 Q. And Mr. Norkunas asked you some questions about that as
25 well, correct?

1 A. Yes.

2 Q. You were not disciplined by the clique, sir, for deciding
3 not to go to bring the gun to Vida Loca, correct?

4 A. No.

5 Q. But some time after the shooting, Vincentino -- if we
6 could go back to Exhibit 10 -- he was corrected, correct?

7 A. Yes.

8 Q. And he was corrected because before the shooting,
9 Vida Loca had been in a fist fight with the man that he later
09:42AM 10 shot, and Vincentino did not help Vida Loca during that fist
11 fight, correct?

12 A. Yes.

13 Q. And after the shooting, the individual known as Crazy came
14 to one of your clique meetings, correct?

15 A. Yes.

16 Q. And he complained that Vincentino hadn't come to
17 Vida Loca's defense during this fist fight, correct?

18 A. That Vida Loca had said that we needed to correct
19 Vincentino because Vincentino had not helped when he had had
09:43AM 20 the fight there, and so Crazy had shown up to make sure that
21 Vincentino would be corrected.

22 Q. And Crazy also said if you don't correct him, either me or
23 Vida Loca will, correct?

24 THE INTERPRETER: Vida Loca or who else?

25 MR. MURPHY: Or Crazy.

1 A. Yes.

2 Q. And at that point, you knew that Vida Loca had shot and
3 killed somebody only a day or two before?

4 A. Yes, I had already heard that.

5 Q. Now, you testified on direct examination about the
6 individual Joel Martinez who you knew as Animal?

7 A. Yes.

09:44AM

8 Q. And you said that Animal had a problem with the Everett
9 clique because when he first came to this country, he had been
10 hanging around with 18th Street members, correct?

11 A. Yes, that Animal said to me.

12 Q. And Animal was from El Salvador, correct?

13 A. Yes.

14 Q. And you knew, sir, that Animal had entered the country
15 illegally, correct?

16 A. I don't know.

17 Q. Did you talk about that with Animal?

18 A. Not that I can recall.

19 Q. Did you ever ask Animal whether he had any working papers?

09:45AM

20 A. We never spoke about that.

21 Q. And do you know, sir, where Mr. -- where Animal entered
22 the United States?

23 A. I don't know.

24 Q. You, sir, were in the country illegally, however, correct?

25 A. Yes.

1 Q. And you had been deported, correct?

2 A. Yes.

3 Q. And you know, sir, based on your own experience that if a
4 person is in the country illegally, they can be arrested by ICE
5 for any reason at any time, correct?

6 MR. POHL: Objection.

7 THE COURT: I'll let him -- it's not a legal opinion.
8 I'll let him testify as to his understanding.

9 A. Yes.

09:46AM 10 Q. And that was your experience, sir, correct?

11 A. Yes.

12 Q. Now, you testified on direct examination that the purpose
13 and the mission of MS-13 is to kill chavalas, correct?

14 A. Yes, attack chavalas and any other rival.

15 Q. And tell us, sir, is it the mission to attack or to kill?

16 A. One never knows if you're going to kill him or just wound
17 him.

18 Q. Is it the goal to try to kill chavalas?

19 A. When you're with chavalas, you can't be sure if you're
09:47AM 20 going to kill him, or if you're just going to wound him.

21 Q. But I'm asking you, sir, about what you say the goals of
22 MS-13 are. Is it the goal or the mission of MS-13 to kill or
23 just to attack?

24 A. To kill and to attack.

25 Q. Now, you've been a member of MS-13, according to your

1 testimony, for 13 years?

2 A. More or less, 12, something like that.

3 Q. And it's fair to say, sir, that you've remained for that
4 period, until your arrest, you were a member in good standing,
5 correct?

6 A. I don't understand the question.

7 Q. You were never kicked out of MS-13, correct?

8 A. No.

9 Q. And during that period, it's fair to say that the number
09:48AM 10 of rival gang members that you killed was exactly zero,
11 correct?

12 A. Yes, zero.

13 Q. And after you came to Massachusetts, you stabbed one rival
14 gang member, correct?

15 A. Yes.

16 Q. Just one, correct?

17 A. Yes.

18 Q. And that was on May 12, 2015, correct?

19 A. Yes.

09:49AM 20 Q. After Pelon drove you to Highland Park in Chelsea,
21 correct?

22 A. Yes.

23 Q. And you agree, sir, that it was your hand on that knife,
24 sir, correct?

25 A. Yes.

1 Q. And it was your decision to use it that day, correct?

2 A. Yes.

3 Q. And according to you, sir, no one talked you into doing
4 that, correct?

5 A. Yes.

6 Q. Because no one talks you into doing anything, right?

7 A. Everyone who belongs to MS, that's what we do.

8 Q. But, sir --

9 A. In MS, all there is is violence, nothing else.

09:50AM 10 Q. So, sir, it was your hand on the knife?

11 A. Yes.

12 Q. And you did this, as you testified yesterday, at the end
13 of the day, on your own account, correct?

14 A. Yes.

15 MR. MURPHY: May I have a moment, your Honor?

16 THE COURT: Yes.

17 MR. MURPHY: Thank you, your Honor.

18 THE COURT: All right. Mr. Lopez.

19 CROSS-EXAMINATION

20 BY MR. LOPEZ:

21 Q. Good morning, Mr. Hernandez Miguel.

22 A. Good morning.

23 Q. My name is Scott Lopez. I represent Edwin Guzman. We've
24 never met before, right?

25 A. No.

1 Q. Now, you were born in El Salvador?

2 A. Yes.

3 Q. And you lived in El Salvador until you were about 14?

4 A. Yes.

5 Q. Did you live with your parents?

6 A. Yes.

7 Q. With your mother?

8 A. Yes.

9 Q. Your father?

09:52AM 10 A. Yes.

11 Q. And when you were 10 years old, you were first exposed to
12 MS-13?

13 A. I don't understand the question.

14 Q. Well, when you were -- I think you testified on direct
15 that you first learned about MS-13 when you were 10 years old?

16 A. Yes.

17 Q. They were in your neighborhood?

18 A. Yes, everywhere they were.

19 Q. Everywhere. And when you were 14 years old, your uncle
09:52AM 20 came to El Salvador to visit your parents?

21 A. Yes.

22 Q. And your uncle lived in the United States?

23 A. Yes.

24 Q. Had you met your uncle before you were 14?

25 A. Yeah, my uncle would visit regularly.

1 Q. And what do you mean by regularly?

2 A. Every year.

3 Q. Was there a particular time of year that he would come and
4 visit?

5 A. I don't know, whenever he wanted to, I guess.

6 Q. What's your uncle's name?

7 A. Tomas Miguel.

8 Q. And now at some point when you were 14 and your uncle came
9 to visit, he told you that he would help you so you could help
09:53AM 10 your family?

11 A. Yes.

12 Q. Did he explain to you what he meant by that, while he was
13 in El Salvador?

14 A. Yes.

15 Q. What did he tell you?

16 A. That he would help me to come here so that I would work
17 and help my parents with money.

18 Q. So, I think you testified that you decided to come to the
19 United States?

09:54AM 20 A. I don't understand the question.

21 Q. Well, did you make the decision to come to the
22 United States at age 14 or did your parents make that decision
23 for you?

24 A. No, my parents told me that if I wanted to come, it was up
25 to me. That it was my decision.

1 Q. But were they -- did they want you to help by working in
2 the United States?

3 A. There was an opportunity. Not everybody gets the
4 opportunity to come to the United States.

5 Q. So you wanted to come to the United States to work?

6 A. Yes.

7 Q. And to send money back home for your family?

8 A. Yes.

9 Q. Now, before you moved to the United States, did you know
09:55AM 10 where your uncle lived?

11 A. I don't understand.

12 Q. Before you moved from El Salvador to the United States,
13 did you know where your uncle lived in the United States?

14 A. I had heard that he lived in California.

15 Q. Had you ever been to the United States before?

16 A. No.

17 Q. In any event, you came to the United States?

18 A. Yes.

19 Q. How did that make you feel?

09:56AM 20 A. Everything was different, everything was better.

21 Q. Did you feel --

22 THE INTERPRETER: I'm sorry, there was an answer.

23 A. I had two jobs and I would get money and I would send it
24 to my parents.

25 Q. Did you feel abandoned by your parents?

1 A. No.

2 Q. Did you think how could my parents send me away if they
3 loved me?

4 A. No.

5 Q. Now, I think you said that your father didn't pay for the
6 coyote, your uncle did?

7 A. My uncle.

8 Q. And do you know what your uncle wanted in return for
9 helping you?

09:57AM 10 A. I don't understand the question.

11 Q. Well, I mean your uncle was helping. What did he want in
12 return?

13 A. No, my uncle helped many people.

14 Q. But he made you work?

15 THE INTERPRETER: I'm sorry.

16 Q. Your uncle made you work?

17 A. He didn't force me to work, one has to work to remain
18 active.

19 Q. I didn't say anything about forcing you, but you came here
09:58AM 20 to work and you, in fact, worked, right?

21 A. Yes.

22 Q. And did he make you do chores around the house?

23 THE INTERPRETER: Make you do?

24 MR. LOPEZ: Yes.

25 A. No.

1 Q. And he didn't send you to school?

2 A. No.

3 Q. What type of job -- you said you had two jobs. What types
4 of jobs did you have when you first came here at age 14?

5 A. As a dishwasher and also working at a Mexican restaurant
6 making burritos.

7 Q. And approximately how many hours a week were you working
8 at age 14?

9 A. I worked about seven hours a day, seven hours at each job.

09:59AM 10 Q. So, 14 hours a day?

11 A. Yes.

12 Q. Seven days a week?

13 A. No, five days a week.

14 Q. Five days a week. So 14 hours a day, five days a week?

15 A. Yes.

16 Q. And how much money were you making that you brought home?

17 A. Quite a bit.

18 Q. How much?

19 A. I don't remember.

10:00AM 20 Q. Give me a ballpark.

21 A. About 700, because you get paid every two weeks.

22 Q. And were you paying taxes on that money you were earning
23 in the United States?

24 A. I don't remember.

25 Q. How much of that money did you send to your parents every

1 week?

2 A. I don't remember, but I always helped them.

3 Q. So there wasn't a particular amount that you had to send
4 to them every week?

5 A. No, because I still had to pay for the trip.

6 Q. So you had to pay back your uncle for the coyote?

7 A. Of course. No one gives money out as a gift.

8 Q. So, you paid for the coyote, not your uncle?

9 A. My uncle paid for it and then I paid him back.

10:01AM 10 Q. Did you also pay your uncle rent?

11 A. Yes.

12 Q. Did you pay him for the food you ate?

13 A. Yes.

14 Q. And whatever was left over, you sent to your parents?

15 A. Yes, I always sent them.

16 Q. And how much were you allowed to keep for yourself?

17 A. Whatever was necessary for me.

18 Q. Well, what does that mean? Explain.

19 A. I would pay the rent, I would pay my uncle back, I would

10:02AM 20 send money to my mother, and I would have maybe 100 or 150 left
21 over.

22 Q. Now, I think you testified that when you were 16, you
23 started high school?

24 A. Yes, I also went to high school.

25 Q. And that was about two years after you arrived in the

1 United States?

2 A. Yes.

3 Q. And when you were in high school -- well, strike that.

4 Before you went to high school, did anyone attempt to teach you
5 English?

6 A. No.

7 Q. And so when you went to high school, you didn't understand
8 English?

9 A. That's why I went, to study English.

10:03AM 10 Q. So you were taught English in high school for the first
11 time?

12 A. That's why I went.

13 Q. Okay. Now, when you went to high school -- by the way,
14 did you participate in any afterschool sports?

15 A. Yes.

16 Q. What sports did you participate in?

17 A. Soccer.

18 Q. And did you work a job after school?

19 A. Yes.

10:04AM 20 Q. And how many hours a week did you work a job after school?

21 A. I would start the job at 4:30 and get out around midnight.

22 Q. And then you'd go to school the next day?

23 A. Yes.

24 Q. How did you do in school? What kind of grades did you
25 receive?

1 MR. POHL: Objection, Judge.

2 THE COURT: I'm struggling with the relevance of any
3 of this, Mr. Lopez.

4 MR. LOPEZ: Let me move on, your Honor.

5 Q. When you went to high school, you were the new kid in
6 town?

7 A. There were many people that were new.

8 Q. Did kids make fun of you?

9 A. No.

10:05AM 10 Q. Did kids pick fights with you?

11 A. Not in the first days.

12 Q. How long did it take before kids started to pick fights
13 with you?

14 A. I made some friends among the Surenos, and when I started
15 hanging out with the Surenos, then the Nortenos started picking
16 fights.

17 Q. And you learned to fight back?

18 A. I didn't learn to fight, only to defend myself.

19 Q. To protect yourself?

10:06AM 20 A. Yes.

21 Q. That was your first -- the first time that there was
22 violence in your life?

23 A. I don't remember.

24 Q. Now, I think you said at some point you met Curly?

25 A. Yes.

1 Q. And you testified that Curly was the word for the Seaside
2 clique?

3 A. Yes.

4 Q. And how old was Curly when you met him?

5 A. I don't know.

6 Q. Was he older than 16?

7 A. Yes, he was older than 25.

8 Q. Older than 25?

9 A. I think so.

10:07AM 10 Q. And you were 16?

11 A. Yes.

12 Q. And you started hanging out with him?

13 A. Yes.

14 Q. Kind of took you under his wing?

15 A. I don't understand.

16 Q. Kind of became like a big brother to you?

17 A. Yes, once you start hanging out with MS-13 dudes, that's
18 what they do. They treat you in such a way that you feel safe
19 with them.

10:07AM 20 Q. Because he was a homie?

21 A. Yes.

22 Q. And you were his little homie?

23 A. Yes.

24 Q. And he gave you alcohol to drink?

25 A. What I recall is that we only smoked marijuana.

1 Q. And he was the one that provided the marijuana?

2 A. No, sometimes I would get it on my own.

3 Q. Okay. And sometimes he would provide what he had for you?

4 A. Yes.

5 Q. Would it be fair to say that you admired him?

6 A. Yes.

7 Q. That you trusted him?

8 A. I respected him because any time that a dude is jumped
9 into MS-13, you respect him, especially if he's a runner.

10:09AM 10 Q. And he made you a homeboy, right?

11 A. Yes.

12 Q. How did that make you feel?

13 A. I felt fine. Whenever anyone is jumped into MS-13, after
14 the beating, one feels happy with the dudes.

15 Q. Did it make you feel strong?

16 A. Yes, once you become a member of MS-13, one's life is
17 different because there are rules in MS-13.

18 Q. And so did it make you feel important?

19 A. Perhaps I did not feel important since I was just a
10:10AM 20 newcomer.

21 Q. Well, I think you said that it made you feel like your
22 other homeboys were your brothers, right?

23 A. Yes.

24 Q. Kind of like your family?

25 A. Like family, yes.

1 Q. And they would have your back?

2 A. Yes. Yes, and in the same way they protect you, you have
3 to protect them as well.

4 Q. And so you didn't have to worry about being attacked at
5 school anymore, did you?

6 A. In school, it was different because Curly couldn't go into
7 the school nor could the other dudes there.

8 Q. Well, did you tell your uncle that you became a homeboy?

9 A. No.

10:11AM 10 Q. Did you tell your parents that you became a homeboy?

11 A. No.

12 Q. And at some point after you became a homeboy, you stabbed
13 someone, right?

14 A. Yes.

15 Q. And I think you testified that you were 17 at the time?

16 A. Yes.

17 Q. And you were with Curly?

18 A. Yes.

19 Q. Did Curly tell you to stab the person?

10:11AM 20 A. No.

21 Q. Did he ask you to stab the person?

22 A. No.

23 Q. You just knew that you had to stab the person?

24 A. We were at the parking lot at a party and Curly was
25 surrounded, so I had taken a piss when I heard them asking

1 Curly what did he flash, so I went up there, and when I saw
2 that there were a lot of guys there, I said, "What's up?" And
3 when the guy turned around I saw -- I knew him. I knew he was
4 a Norteno.

5 Q. So if I'm hearing you correctly, Curly was in trouble?

6 A. Yes.

7 Q. He was surrounded by Nortenos?

8 A. Yes.

9 Q. And you came to his defense?

10:13AM 10 A. We weren't going together, but what happens is I had
11 stopped to take a leak and since he was going in and he was
12 ahead of me, he got attacked first.

13 Q. So when you stabbed someone for the first time, it was
14 because Curly was being attacked, right?

15 A. They weren't attacking him, they were just saying what's
16 up, like what was he flashing because he was wearing very loose
17 clothing.

18 Q. How many Nortenos were around Curly?

19 A. I think there were three, but there were more from over
10:14AM 20 there to over here.

21 Q. And it was just you and Curly?

22 A. No, there was a Sureno with us as well.

23 Q. So three on three?

24 A. Yes.

25 Q. And you stabbed one of the Nortenos?

1 A. Yes.

2 Q. Did the Nortenos attempt to stab you or Curly before you
3 stabbed them?

4 A. No.

5 Q. So you were the aggressor?

6 A. No, because they had Curly surrounded. That's why I went
7 there.

8 Q. Because you thought they were going to stab Curly?

9 A. Yes.

10:15AM 10 Q. So you thought you were defending Curly?

11 A. Being a member of MS-13, you can't allow for another dude
12 to lose.

13 Q. Sir, what I'm trying to get to is your state of mind when
14 you stabbed the Norteno.

15 MR. POHL: I object, Judge. I think he answered that
16 question.

17 THE COURT: Again, I'm having trouble seeing the
18 relevance of any of this, but I'll allow it, go ahead.

19 Q. When you stabbed the Norteno, did you think that you were
10:16AM 20 protecting Curly?

21 A. Well, what I did was because Curly was -- they were going
22 to attack Curly, so before they attacked Curly, I did that.

23 Q. You struck first?

24 A. Exactly, because they had him surrounded. Once you're
25 surrounded in that way, that means that they're going to beat

1 you up.

2 Q. Now, Mr. Hernandez Miguel, are you familiar with MS-13
3 rules regarding older or mature members of the gang?

4 A. I don't understand the question.

5 Q. Well, have you ever heard the term "calmado"?

6 A. Yes, I've heard that.

7 Q. And that's when older members are allowed to retire, so to
8 speak?

9 A. That hardly occurs.

10:17AM 10 Q. But there's a rule that allows for it, right?

11 A. There is no rule saying that somebody can get beat,
12 calmado. It's only the clique might tell someone to calm down,
13 to calmado.

14 Q. So calmado means to calm down?

15 A. Like to take it easy.

16 Q. And someone who's allowed to calm down isn't expected to
17 go out and participate in gang activities, right?

18 A. Nowhere.

19 Q. And usually it's members who are married?

10:18AM 20 A. No.

21 Q. Starting families?

22 A. Most of the dudes have children.

23 Q. Get legitimate jobs?

24 A. Most of the dudes have jobs.

25 Q. Buy homes?

1 A. That doesn't matter, according to the gang rules, the MS
2 rules.

3 Q. And those who are calmed down refuse to participate in
4 gang activities, right?

5 A. I don't understand the question.

6 Q. Since you were about 16 years old, you have lived a life
7 of crime?

8 A. I don't understand the question.

10:19AM 10 Q. Well, I think you said your first stabbing was when you
were 17 years old?

11 A. Yes.

12 Q. And since that time, you've been committing other crimes,
13 right?

14 A. Anyone who belongs to MS-13, that's what we do.

15 Q. Sir, I'm not talking about anyone besides you. You have
16 lived a life of crime since you were 17 years old, correct?

17 A. Anyone who belongs to MS-13, that's what they do.

18 MR. LOPEZ: Move to strike the answer, your Honor.

19 THE COURT: All right.

10:20AM 20 Q. Sir, I'm going to ask again. You, Mr. Hernandez Miguel,
21 have lived a life of crime since you were 17 years old,
22 correct?

23 A. Yes.

24 Q. And you've lived a life of crime and violence?

25 A. You learn violence in MS-13.

1 Q. And you learned violence?

2 A. From MS.

3 Q. And you lived a life of violence, right?

4 A. Because I was an MS-13 and that's what MS-13 does. They
5 bring you in for violence and you have to be in committing
6 violence.

7 Q. Sir, you're the one testifying.

8 A. Yes.

9 Q. I'm not asking anyone else who may be a member of MS-13
10:21AM 10 about their life. I'm asking about your life, right?

11 A. Yes.

12 Q. And you have lived a life of violence?

13 A. I'm telling you that that's what one learns in MS-13.

14 Q. I'm not asking where you learned it. I'm saying -- I'm
15 asking you did you live one, live a life of violence?

16 A. Exactly what I'm telling you that I learned that in MS-13
17 because had I not joined MS-13, that's not what I would have
18 learned.

19 Q. So your answer is yes?

10:22AM 20 A. Yes.

21 Q. And, in fact, you lived a life of crime, violence, and
22 lies, right?

23 THE INTERPRETER: I'm sorry, what was the last part?

24 MR. LOPEZ: Lies.

25 A. I don't understand.

1 Q. Well, you know what a lie is?

2 A. Yes.

3 Q. Like when you told the Eastside clique that you had
4 committed three murders, that was a lie, right?

5 A. Yes.

6 Q. And so you've lived a life of crime, violence and lies
7 since you were 17 years old, right?

8 A. Yes, I learned it in MS-13.

9 Q. And you became very good at all three, didn't you?

10:23AM 10 A. I don't understand the question.

11 Q. Well, during your life of crime, you learned ways to avoid
12 being responsible for your criminal conduct, right?

13 A. I don't understand.

14 Q. During your life of crime, did you learn ways not to be
15 caught?

16 A. Yes.

17 Q. Because the most important thing in your life has always
18 been what's in the best interest of Mr. Hernandez Miguel,
19 right?

10:24AM 20 A. I don't understand the question.

21 Q. Well, the most important thing in your life is doing
22 what's best for you, right?

23 A. Yes.

24 Q. And one of the things you became very good at was lying,
25 right?

1 A. I don't even understand your question.

2 Q. Well, did you get very good at lying to other people?

3 A. No, I don't understand.

4 Q. Well, did you lie to people involved in law enforcement?

5 A. Not that I know of.

6 Q. Did you lie to people involved in immigration enforcement?

7 A. Not that I know of. I don't know.

8 Q. Because the most important thing for you was to stay out
9 of trouble, right?

10:26AM 10 A. I don't understand the question.

11 Q. Well, sir, do you know what a lie is?

12 MR. POHL: Objection.

13 THE COURT: I think we've been over this quite a bit,
14 Mr. Lopez.

15 Q. Well, would you agree with me that you would lie whenever
16 you needed to get something you wanted?

17 A. No, I don't understand.

18 Q. Well, when you lie, you are trying to convince the other
19 person that you're talking to that you're telling the truth,
10:27AM 20 right?

21 A. I don't understand the question.

22 Q. Well, when you lie, and you've lied in the past, have you
23 tried to convince the other person that you were lying so that
24 you were telling them the truth?

25 MR. POHL: Objection.

1 THE COURT: I'll hear the answer.

2 A. As far as I know, I have not lied.

3 Q. You've never lied?

4 A. That I know of. I don't understand what you're talking to
5 me about.

6 Q. Well, can someone tell that you're lying by looking at
7 you?

8 THE COURT: All right. You're just beating this to
9 death, Mr. Lopez. Why don't you move onto a different topic.

10:28AM 10 Q. Mr. Hernandez Miguel, do you consider yourself an honest
11 person?

12 MR. POHL: Objection.

13 THE COURT: All right. I'll allow this, but you need
14 to move onto a different topic, Mr. Lopez.

15 A. When all of us who are in MS-13, when we are in MS-13,
16 we're not honest-honest.

17 Q. Mr. Hernandez Miguel, would you lie to avoid a long prison
18 sentence?

19 A. No.

10:29AM 20 Q. Now, I think you've testified that you were not a drug
21 dealer?

22 A. I don't understand the question.

23 Q. Well, did you or did you not sell cocaine to others?

24 A. I did not sell cocaine. I would be paid \$100.

25 Q. And that was with the deals you did with Pelon?

1 A. Yes.

2 Q. So, Pelon made you do it?

3 A. No.

4 THE COURT: All right. Let's take our break.

5 THE CLERK: All rise.

6 (JURORS EXITED THE COURTROOM.)

7 (A recess was taken.)

8 THE CLERK: All rise for the jury.

9 (JURORS ENTERED THE COURTROOM.)

10:49AM 10 THE CLERK: Thank you. You may be seated. Court is
11 now back in session.

12 THE COURT: Mr. Lopez.

13 MR. LOPEZ: Thank you, your Honor.

14 Q. When we left, Mr. Hernandez Miguel, I was asking you about
15 your involvement with selling cocaine.

16 A. Yes.

17 Q. And I think you testified that you only sold -- or strike
18 that -- you didn't sell cocaine but that you would get \$100
19 from Pelon when you provided him with security during his drug
10:50AM 20 transactions?

21 A. Yes.

22 Q. And you understand you're under oath?

23 A. Yes.

24 Q. And you're required to tell the truth?

25 A. Yes.

1 Q. And if you don't tell the truth, the government can decide
2 not to give you the benefit of your plea agreement, right?

3 A. Yes.

4 Q. Or your cooperation agreement?

5 A. Yes.

6 Q. So I ask you during the time you were a member of
7 Eastside, did you supply MS-13 gang members with cocaine in the
8 amounts of \$40 bags and \$100 bags?

9 THE INTERPRETER: I'm sorry, \$40 or --

10:51AM 10 MR. LOPEZ: -- \$100.

11 A. Sometimes I had some and I used it and sometimes I was
12 there when others were there and they also used it.

13 Q. But did you sell it to other gang members in the amounts
14 of \$40 bags and \$100 bags?

15 A. I don't recall having sold it. I do recall that we used
16 it.

17 Q. And would you typically, after a drug customer called you
18 to place an order, call a runner to deliver drugs and collect
19 the money?

10:52AM 20 THE INTERPRETER: I'm sorry, could you repeat the
21 question for the interpreter?

22 MR. LOPEZ: Yes.

23 Q. Would you typically, after a drug customer called you to
24 place an order, call a runner to deliver drugs to the customer
25 and collect your money?

1 A. I don't understand the question.

2 Q. Well, did you use a runner to sell drugs?

3 A. I've never sold drugs.

4 Q. Never, ever?

5 A. No. We did use drugs.

6 Q. Now, do you know a man by the name of Mauricio Sanchez?

7 A. Yes, that's Tigre.

8 Q. That's Tigre. And starting in the summer of 2015, did you
9 begin supplying him with cocaine?

10:53AM 10 A. We used drugs with him as well.

11 Q. Well, didn't Mr. Sanchez or Tigre pick up \$40 and \$80 bags
12 of cocaine from your residence?

13 A. Not that I can recall.

14 Q. So you didn't sell Tigre \$40 and \$80 bags of cocaine in
15 the summer of 2015?

16 A. Not that I can recall.

17 Q. And who's Chentino?

18 A. Vincentino.

19 Q. Vincentino?

10:54AM 20 A. Yes.

21 Q. And did you use Vincentino as your runner?

22 A. Not that I can recall.

23 Q. You don't have any memory of that?

24 A. Vincentino, no.

25 Q. Well, did you -- did he go by both names, Chentino and

1 Vincentino?

2 A. I know him as Vincentino.

3 Q. And during the summer of 2015, did you provide him with
4 five or six \$40 bags of cocaine on a weekly basis to supply
5 your customers?

6 A. Not that I can recall.

7 Q. And if I told you that Tigre told that to the
8 government --

9 MR. POHL: Objection.

10:55AM 10 Q. -- during one of its proffers?

11 THE COURT: Well, sustained.

12 Q. Now, during the time that you weren't selling cocaine, you
13 learned ways not to be held responsible, right?

14 A. I don't understand the question.

15 Q. Well, I think you said that you didn't use Vincentino as a
16 runner, right?

17 A. Vincentino has never been a runner. The runners are
18 Casper and Playa.

19 Q. The runner for your drug operation, your delivery boy?

10:56AM 20 A. I don't know.

21 Q. You didn't use a delivery boy in your drug operation?

22 A. No.

23 Q. And you didn't use a delivery boy to avoid responsibility
24 in case he got caught with the drugs?

25 A. No.

1 Q. In case he got caught with your drugs?

2 A. Not that I can recall.

3 Q. Now, one of the other ways that you tried to avoid being
4 held responsible for things you did was to use false names,
5 right?

6 A. No, I used a name for work.

7 Q. So the only reason you used a false name was for work?

8 A. I used it to work.

9 Q. And what name did you use for work?

10:57AM 10 A. I don't remember.

11 Q. Was it Jose Hernandez?

12 A. That's my name.

13 Q. Was it Jose Damian Hernandez Miguel?

14 A. That's my name.

15 Q. Was it Jose Miguel Hernandez?

16 A. That's my name.

17 Q. Was it Jose Damian Hernandez?

18 A. That's my name.

19 Q. Was it Jose Miguel?

10:58AM 20 A. That's also my name.

21 Q. Those are all your names?

22 A. Yes.

23 Q. And you use all of those names?

24 A. Well, that's my name. Why wouldn't I use it?

25 Q. Now, during your life of crime, you've tried to avoid

1 situations where you would get involved with confidential
2 informants?

3 A. I don't understand the question.

4 Q. Well --

5 THE COURT: Ask it in a non-argumentative way and
6 maybe you'll make some headway, Mr. Lopez.

7 Q. Well, you testified that MS had rules with respect to
8 confidential informants?

9 A. Yes.

10:59AM 10 Q. And did you have an understanding as to whether or not you
11 should work with confidential informants?

12 A. I don't understand.

13 Q. Do you know what a confidential informant is?

14 A. Yes.

15 Q. And in this case, Pelon was working with the government as
16 a confidential informant, right?

17 A. Yes.

18 Q. And you became friends with him, right?

19 A. Yes.

11:00AM 20 Q. Really good friends?

21 A. Yes.

22 Q. Like best friends?

23 A. Yes.

24 Q. And you introduced him to Mr. Guzman?

25 A. I didn't introduce them. I went to hang out and he also

1 arrived.

2 Q. Did you bring Pelon to the Eastside clique?

3 A. No, I got there and I was hanging out with Pelon. I would
4 go where Pelon went. We were always together and the dudes
5 always saw him with me and so they started taking his phone
6 number and then he started going out with all of them. One day
7 I arrived to the garage with Pelon --

8 MR. LOPEZ: Your Honor, I move to strike what he's
9 talking about now.

11:01AM 10 THE COURT: I think he's answering the question.

11 MR. LOPEZ: Well, the question was did he bring him to
12 the clique?

13 THE COURT: And he's explaining, you interrupted when
14 he said one day I arrived to the garage with Pelon, and then
15 you interrupted him, so I'll let him continue.

16 Q. Finish, sir.

17 A. One day I arrived to the garage with Pelon and the dudes
18 were there hanging out, and several already knew him, so Casper
19 grabbed him and said we have to jump this guy in, and so Casper
11:01AM 20 jumped him in. I never told him to jump him in.

21 Q. I don't believe I asked you that question, but so are you
22 saying the very first time you saw Pelon at a clique meeting,
23 he was jumped in?

24 A. No, that's not what I'm saying.

25 Q. In fact, you wanted him to be jumped into the Eastside

1 clique, right?

2 A. At no time did I speak with the runners about jumping him
3 in. The runner jumped him in because he wanted to. He said
4 that he was ready to be jumped in. And Pelon said no, no, no,
5 don't jump me in, later, but he jumped him in right then and
6 there.

7 Q. So, sir, if I'm understanding you correctly, Pelon was
8 known to members of the clique before you brought him there,
9 correct?

11:03AM 10 A. He was hanging out with me, Pelon, and because of that,
11 the dudes in the clique met him.

12 Q. And according to you, you were indifferent about whether
13 he should be jumped in, right?

14 A. I didn't care if they jumped him in or not.

15 Q. Now, at that point in time was he your best friend?

16 A. He was with me.

17 Q. And I think you said you brought him to the meeting,
18 right?

19 A. I never took him to the meeting. When I took him there,
11:04AM 20 the dudes were just hanging out at the garage.

21 Q. How did you feel when you found out he was a government
22 informant?

23 MR. POHL: Objection.

24 THE COURT: Sustained. Sustained.

25 Q. Did you feel betrayed?

1 MR. POHL: Objection.

2 THE COURT: Sustained.

3 MR. LOPEZ: Your Honor, may I approach?

4 THE COURT: All right.

5 (THE FOLLOWING OCCURRED AT SIDEBAR:)

6 THE COURT: Yes.

7 MR. LOPEZ: I believe I'm allowed to probe his state
8 of mind, his bias, and his motives here.

9 THE COURT: His bias against whom, against Pelon?

11:05AM 10 MR. LOPEZ: Against Pelon and against the Eastside
11 clique.

12 THE COURT: Mr. Pohl.

13 MR. POHL: I don't know. Pelon's not a witness. I
14 don't know what the relevance of his bias is, and I don't think
15 there's been any demonstration that he's biased against anyone.

16 THE COURT: All right. I'll allow it. There's so
17 much here about this witness' subjective feelings and things
18 that are not relevant, and it's a little distracting, but I
19 will allow this. When you ask witnesses an argumentative
11:05AM 20 question on cross, you're likely to get an argumentative answer
21 or an evasive answer. And, you know, if that's your strategy,
22 it's all right, but it's really repetitive and difficult to
23 listen to sometimes, but I'll allow this.

24 MR. LOPEZ: Thank you, your Honor.

25 (SIDEBAR CONFERENCE WAS CONCLUDED)

1 THE COURT: All right, go ahead, Mr. Lopez. I'll
2 allow it. Overruled.

3 Q. Did you feel betrayed?

4 A. I realized it when I was arraigned here, I realized it was
5 him.

6 Q. And did you feel betrayed?

7 A. At that moment, I didn't understand why he had done that.

8 Q. Now, you testified that in 2009 you were deported back to
9 El Salvador?

11:06AM 10 A. Yes.

11 Q. And you came back with the help of a coyote?

12 A. I came by myself, but at the border, I paid a coyote to
13 cross over.

14 Q. And did you go through Guatemala?

15 A. Yes.

16 Q. And Mexico?

17 A. Yes.

18 Q. Have you ever told anyone that you were born in Guatemala?

19 A. Not as far as I can recall, I never said that.

11:07AM 20 Q. What about Honduras?

21 A. No.

22 Q. What about the United States?

23 A. No.

24 Q. Have you ever told anyone you were an American citizen?

25 A. Not that I can recall. Had I been a citizen, I wouldn't

1 have been deported.

2 Q. Now, you've been asked a lot of questions about the
3 proffer agreement that you signed in May of 2016, and
4 essentially you understood that by signing that agreement,
5 which was marked as Exhibit 48, anything that you told the
6 agents or the U.S. Attorney's Office couldn't be used against
7 you, right?

8 A. Yes.

9 MR. LOPEZ: If I could have a moment, your Honor. I'm
11:08AM 10 trying not to repeat what's already been asked.

11 THE COURT: Yes.

12 Q. Now, in your October 2016 proffer, did you tell the
13 government that you were not required to kill to become a
14 homeboy?

15 A. One has to attack somebody to gain respect from the
16 homeboys.

17 Q. Sir, the question I asked you is whether or not you told
18 the government that you did not have to kill in order to be a
19 homeboy?

11:09AM 20 A. I don't remember.

21 Q. Right. I'll come back to that. Now, you testified that
22 you came to Mass in 2004 after your sister's husband died?

23 A. Yes.

24 Q. Do you know when he died?

25 A. I don't remember.

1 Q. Did you attend the funeral?

2 A. No.

3 Q. When you came to Massachusetts in 2004, were you living
4 with your sister?

5 A. Yes.

6 Q. And I think you testified that around some time later you
7 met Mr. Guzman for the first time?

8 A. Yes.

9 Q. And he did not introduce himself as a runner, right?

11:11AM 10 A. At that time he did not tell me he was a runner.

11 Q. Okay. And if he was, the rules of the gang would have
12 required him to tell you that, right?

13 A. Well, the main runner was Casper and he did tell me that
14 he was a runner.

15 Q. Let me try again. As far as you knew, the rules of the
16 gang would have required to introduce himself as a runner if he
17 was, in fact, the runner, right?

18 A. The runner was Casper. He was the main person.

19 Q. So, are you distinguishing between Mr. Sandoval as the
11:12AM 20 runner and Mr. Guzman as the runner?

21 A. Yes, because there's the runner and then there's the
22 second one.

23 Q. And during your testimony in this case, you referred to
24 them as the runner in the singular?

25 A. Yes.

1 Q. And the runners in the plural?

2 A. Runners. Casper is the first and Playa is the second.

3 Q. Were you present when Mr. Guzman became the second?

4 A. No.

5 Q. So you're relying upon what other people told you about
6 his status, right?

7 A. How would I not know since I was a member of the Eastside?
8 How would I not know who runs the clique?

9 Q. Sir, were you present when he became the second in
10 command?

11:13AM

11 A. No.

12 Q. And in --

13 A. Because when I arrived, he was already a runner.

14 Q. When you arrived in 2004?

15 A. No, when I took the word with them.

16 Q. But in 2004, if he was second in command, the rules of
17 MS-13 would have required him to announce his status, correct?

18 A. No, because the main one who's first is the principal and
19 he is the one that has to identify himself. The second one is
20 there in case the first one is not.

11:14AM

21 Q. But I thought you testified on direct that when members
22 meet each other, they tell each other their name and their
23 status, right?

24 A. No, you say the alias.

25 Q. And you don't tell your other members whether you're a

1 homeboy, a paro, or a chequeo?

2 A. One says it because if you flash the Mara sign, then
3 you're in the Mara, in MS. If one is not in MS, one cannot
4 greet another dude with the flashings of the MS.

5 Q. So if one is in MS and he's meeting another MS member who
6 he hasn't met before, he tells him his name and his status in
7 the gang; be that homeboy, paro, or chequeo?

8 A. One says from what clique one is.

9 Q. In addition to what clique they're from --

11:16AM 10 A. Yes.

11 Q. -- do they also tell you whether or not they are first or
12 second in command?

13 A. On that occasion, that did not happen. When Casper
14 introduced him, he did because Curly had also told him.

15 Q. So, to be clear, in 2004, when you first met Mr. Guzman,
16 he did not tell you he was second in command, right?

17 A. I don't remember.

18 Q. You don't remember?

19 A. No.

11:17AM 20 Q. Do you remember when you came here in 2004?

21 A. No.

22 Q. Was it in the beginning of the year?

23 A. I don't remember.

24 Q. End of the year?

25 A. I don't remember.

1 Q. You testified that you stayed in Massachusetts for six or
2 seven months?

3 A. No, what I said was that I went back and forth from
4 Los Angeles to here and that I had remained permanently in
5 2007.

6 Q. So, between 2004, when you first came here, and 2007, how
7 many times did you go back and forth?

8 A. About two times, maybe three.

9 Q. The last time that you went back to California, what year
10 was it?
11:18AM

11 A. I think it was around 2006.

12 Q. But you testified that you returned to Massachusetts two
13 years later, right?

14 A. I said that I was in between, back and forth, during that
15 period of time from Massachusetts to L.A., and in 2007 I
16 remained permanently in Massachusetts.

17 Q. When in 2007?

18 A. I don't remember.

19 Q. You don't remember the date?

11:19AM 20 A. No.

21 Q. Do you remember the month?

22 A. No.

23 Q. Do you remember the season?

24 A. I think it might have been summer.

25 Q. And you said that at some point you saw Mr. Guzman again?

1 A. Yes.

2 Q. And do you remember when that was?

3 A. I think the first time I saw him again was in Everett at
4 Tecolote's.

5 Q. And do you remember when that was?

6 A. No, I don't.

7 Q. How about the month?

8 A. No, I don't remember the month, but it was a short while
9 after I had returned.

11:20AM 10 Q. And at some point I think you testified that Mr. Sandoval
11 asked you to start hanging out with the Eastside clique?

12 A. Yes.

13 Q. And you started hanging out with them?

14 A. Yes.

15 Q. When was that?

16 A. I think it was around 2008.

17 Q. What month?

18 A. I don't remember.

19 Q. Early 2008?

11:21AM 20 A. I don't remember the month.

21 Q. Do you remember the season?

22 A. It was during the summer.

23 Q. So there wasn't any snow on the ground?

24 A. I don't remember.

25 Q. But you do remember the conversation you had with

1 Mr. Guzman -- I mean, with Mr. Sandoval, right?

2 A. Yes.

3 Q. And when you had that conversation, were you alone with
4 him?

5 A. No, there were a whole bunch of dudes hanging out there.

6 Q. And were you drinking when you were hanging out?

7 A. Smoking and also drinking.

8 Q. Smoking marijuana?

9 A. Yes.

11:22AM 10 Q. And drinking alcohol?

11 A. Yes.

12 Q. And were you doing cocaine as well?

13 A. I don't remember.

14 Q. Well, you testified earlier that you used to bring cocaine
15 and share it with others?

16 A. Which year are you referring to?

17 Q. The year that you say this conversation occurred.

18 A. Yeah, but that doesn't mean that wherever I went I was
19 handing cocaine out to everybody.

11:22AM 20 Q. So you then say that at some point later, you
21 were -- strike that. You then get deported, right?

22 A. Yes.

23 Q. And you didn't become -- at the time you were deported,
24 were you already a homeboy?

25 A. Yes.

1 Q. Of the Eastside clique?

2 A. I had the word with Eastside clique.

3 Q. And when did that happen?

4 A. A few days after I spoke with Casper because I used to
5 hang out with the dudes in Somerville, and Casper asked me why
6 wouldn't I take the word with the Eastsides since my clique was
7 not in Boston that I should take the word with the Eastsides.

8 Q. And what day did that conversation occur?

9 A. Like I told you, it was around summertime.

11:24AM 10 Q. Well, what month in the summer?

11 A. I don't know what month it was.

12 Q. Where did the conversation take place?

13 A. At Tecolote's house.

14 Q. And you say you don't remember the month, but it might
15 have been some time in the summer?

16 A. Yes.

17 Q. Now, you also testified that after you became a member,
18 there were meetings that were held on a regular basis?

19 A. After I had the word with the Eastsides?

11:25AM 20 Q. Yes.

21 A. Yes.

22 Q. And sometimes they were once a month?

23 A. Yes.

24 Q. Sometimes they were twice a month?

25 A. Yes.

1 Q. And sometimes they were every week?

2 A. When there was an issue with one of the dudes, it would be
3 more often.

4 Q. And what year were these meetings taking place?

5 A. Which year?

6 Q. Yes.

7 A. MS-13 does meetings all the time, not just every year.

8 Q. So, in 2008 these meetings were being held?

9 A. Yes.

11:26AM 10 Q. And in 2009?

11 A. Yes.

12 Q. Now, you were deported in 2009, right?

13 A. Yes.

14 Q. And I think Mr. Murphy asked you if you knew when you were
15 arrested by Immigration and Customs Enforcement?

16 A. Yes.

17 Q. Do you remember the date of your arrest?

18 A. No.

19 Q. Do you remember where you were?

11:26AM 20 A. Yes.

21 Q. Where were you?

22 A. In East Boston with the Everetts.

23 THE INTERPRETER: I'm sorry, with the -- on Everett
24 Street.

25 A. On Everett Street.

1 Q. Because you lived on Everett Street?

2 A. Yes.

3 Q. What number Everett Street?

4 A. 87.

5 Q. And they came to your house?

6 A. Yes.

7 Q. Were you living there alone?

8 A. With my sister.

9 Q. And they took you away?

11:27AM 10 A. Yes.

11 Q. And how long did they hold you before they deported you?

12 A. I don't remember.

13 Q. Well, do you remember when you arrived in El Salvador in
14 2009?

15 A. I don't remember.

16 Q. You don't remember the date?

17 A. No.

18 Q. Do you remember the month?

19 A. I think it was July.

11:27AM 20 Q. So, it was the summer again?

21 A. I think so.

22 Q. Now, in 2008, you claim that you beat up a black male in
23 front of the Taco Loco on Broadway Street in Somerville. Do
24 you remember that?

25 A. We had a fight there.

1 Q. Because you thought the black male was making hand signals
2 at you?

3 A. No, we were in Spooky's car. It was myself, Spooky,
4 Caballo, and Demente, and it was Caballo that hit him and
5 Demente.

6 Q. And you didn't notice the police detective across the
7 street when this fight occurred, did you?

8 A. No, we didn't notice that the detective was there.

9 Q. And after the fight, the detective stopped the car you
10 were in, right?

11 A. Yes.

12 Q. But you were not arrested?

13 A. They kept us there, they took us out of the car and
14 checked each one of us, but they only arrested Caballo because
15 they found some knife or knives in his feet.

16 Q. And would it be fair to say that before you were involved
17 with that assault, you didn't ask permission from Mr. Sandoval
18 to do it?

19 A. How could I call him during the fight saying that I'm in a
20 fight?

21 Q. And you didn't ask Mr. Guzman for permission to be
22 involved in that fight?

23 A. No.

24 Q. Now, you also testified that before you were deported,
25 that you and Mr. Guzman assaulted a chavala?

1 A. Yes.

2 Q. Do you recall the date of this alleged attack?

3 A. No.

4 Q. Do you remember the month?

5 A. No, I don't.

6 Q. Do you remember the season?

7 A. It was around summer.

8 Q. So, did this assault occur -- you think it occurred in the
9 summer of 2009?

11:31AM 10 A. It was before I was deported.

11 Q. Six months before you were deported?

12 A. I don't remember.

13 Q. But you do recall that you were living in East Boston?

14 A. Yes.

15 Q. Near the Maverick Station?

16 A. Yes.

17 Q. On Everett Street?

18 A. Yes.

19 Q. And I think you testified, and I quote, "We had talked to
11:32AM 20 Playa." Do you remember testifying to that?

21 A. Can you repeat the question? I don't remember that.

22 Q. You testified, to be more specific, on February the 6th
23 that, "We had talked to Playa"?

24 A. I spoke to Playa that he was going to pick me up to go
25 hang out in Revere.

1 Q. And you further testified that, "We were going to hang out
2 with the dudes in Revere"?

3 A. Yes.

4 Q. Who was the "we"?

5 A. Playa and myself.

6 Q. So when you said "We had talked to Playa," you meant I had
7 talked to Playa?

8 A. Playa picked me up. It was only Playa and myself in the
9 car.

11:33AM 10 Q. So, when you used the word "we," you meant "I"?

11 A. I said that I had called Playa and that Playa had come to
12 pick me up so that we could go hang out in Revere.

13 MR. LOPEZ: Your Honor, may I have the Elmo just for
14 the witness.

15 Ms. Huacuja, can you read the first line through the
16 first sentence.

17 THE INTERPRETER: Line 1?

18 MR. LOPEZ: Line 1 through line 4 through the end of
19 the sentence.

11:35AM 20 Q. Now, sir, do you see that in line 1 you said, and I quote,
21 "We had talked with Playa"?

22 THE INTERPRETER: Could you tell me which line?

23 Q. Starting the last word on the first line, "We had talked
24 with Playa." Do you see that, sir?

25 A. Yes.

1 Q. Is that what you said?

2 A. I was at home, I was the only one at home, and the only
3 one that came to pick me up was Playa.

4 Q. Is that what you said, sir?

5 A. What I said was that I had spoken to Playa so that we
6 would go hang out in Revere.

7 Q. Sir, did you say, quote, "We had talked with Playa"?

8 A. How would I say "we" if only "I" was there?

9 Q. So you're saying the transcript is inaccurate?

11:36AM 10 A. I don't know.

11 Q. In any event, you also said, and I quote, "We were going
12 to hang out with the dudes in Revere," right?

13 A. Yes.

14 Q. And, again, when you used the word "nosotros," you meant
15 "I"?

16 A. I don't understand the question.

17 Q. When you used the word "we," you meant "I"?

18 A. The two of us were going -- it was Playa and myself.

19 Q. So the point is that it was just you and Mr. Guzman?

11:37AM 20 A. Yes.

21 Q. No one else?

22 A. No.

23 Q. There was no "we," there was no third person?

24 THE COURT: You've asked this question many, many
25 times. Let's move on.

1 MR. LOPEZ: There is a point, your Honor.

2 Q. There was no third person that was with you and Mr. Guzman
3 at the time that this alleged assault occurred, correct?

4 A. Only the two of us.

5 Q. And you testified that before you left Boston going
6 towards Revere, under some bridges, you saw a chavala walking
7 all dressed in red, right?

8 A. We saw him because he was walking down the street.

9 Q. But you said that you were heading from East Boston going
10 towards Revere?

11 A. Yes.

12 Q. Under some bridges?

13 A. Yes.

14 Q. Bridges, meaning more than one?

15 A. Yes, because down there, there are bridges.

16 Q. And you testified that this assault took place under those
17 bridges?

18 A. Yes.

19 Q. Now, can you describe what it looked like under the
20 bridges where you say this attack occurred?

21 A. We were going, heading towards Revere, and the chavala ran
22 from the street he was on towards some bridges that were over
23 there.

24 Q. Some bridges, plural?

25 A. A bridge where cars go over.

1 Q. And what did it look like underneath the bridge?

2 A. What do you mean?

3 Q. What did you observe underneath the bridge?

4 A. The chavala that was walking there.

5 Q. Well, did you observe any cars under the bridge?

6 A. I don't remember.

7 Q. A parking lot?

8 A. I think so.

9 Q. Concrete?

11:40AM 10 A. Yes, I think so.

11 Q. Can you describe for me based on your memory from that day
12 what underneath the bridge looked like?

13 A. The foundations there when we followed the chavala, the
14 chavala took off running, and he tried to get under a bridge
15 that was over there, and there's like cement there and all
16 that.

17 Q. And you caught up to him underneath the bridges?

18 A. I think it was before going in there because the guy took
19 off running, but he was running towards where the bridges were.

11:41AM 20 Q. And when you caught up to him, was he under the bridges?

21 A. He was running towards the -- underneath the bridge, the
22 bridge was above.

23 Q. Now, I notice during your direct that you didn't testify
24 as to the type of car Mr. Guzman was driving on that day when
25 you say he picked you up, right?

1 A. No.

2 Q. Now, in preparing for your testimony in this case, did you
3 discuss the type of car that Mr. Guzman was driving?

4 A. I don't remember.

5 Q. In any event, you were in Mr. Guzman's car?

6 A. Yes.

7 Q. And you saw a chavala?

8 A. Yes.

9 Q. And you said "That's a chavala"?

11:42AM 10 A. Yes.

11 Q. And then you said to Mr. Guzman, "We have to attack him"?

12 A. I said, "There's a chavala, let's get him."

13 Q. And you told Mr. Guzman to pull over?

14 A. Before we reached the stop sign -- when we reached the
15 stop sign, I opened the door. He got out on his own account.
16 I didn't tell him to stop.

17 Q. So you didn't tell Mr. Guzman to pull over?

18 A. I told him, "Let's get the chavala."

19 Q. So you didn't say to him, you didn't tell him to pull
11:43AM 20 over?

21 A. Well, if I said, "Let's get the chavala," in effect I was
22 saying let's stop the car.

23 MR. LOPEZ: Your Honor, can I have the Elmo for the
24 witness again.

25 Ms. Huacuja, can you read line 9 beginning with the

1 word "and."

2 THE INTERPRETER: Should I go to the next line?

3 MR. LOPEZ: No, just that line.

4 THE INTERPRETER: Okay.

5 Q. Ms. Huacuja read that line to you?

6 A. Yes.

7 Q. And does that line say, "So I told Playa to pull over"?

8 A. Yes.

9 Q. So you did tell him to pull over?

11:44AM 10 A. I told him, "Let's get the chavala," and when we came to
11 the stop sign, he had to stop, and I said, "Let's get him."

12 Q. So, you then chased the chavala?

13 A. Yes.

14 Q. And he tried to run away under the bridges?

15 A. Yes.

16 Q. You caught him?

17 THE INTERPRETER: I'm sorry, when you say "you," do
18 you --

19 Q. You, meaning Mr. --

11:45AM 20 A. Yes.

21 Q. And you smashed his face with a bottle?

22 A. Yes.

23 Q. And you testified that the chavala was on the floor when
24 Mr. Guzman came and hit him with a bottle as well?

25 A. Yes, and also with the feet, with his feet.

1 Q. So, you hit him with one beer bottle?

2 THE INTERPRETER: I'm sorry?

3 Q. You, Mr. Hernandez Miguel, hit him with one beer bottle?

4 A. Yes.

5 Q. And you claim that Mr. Guzman also hit him with one beer
6 bottle?

7 A. Yes.

8 Q. Now, this assault you said took place under some bridges?

9 A. Yes.

11:46AM 10 Q. More than one bridge?

11 A. I don't know how many bridges there are there. I just saw
12 that there were bridges.

13 Q. So you're not sure if it was more than one bridge?

14 A. There's a bridge overhead that goes towards Revere coming
15 out of the highway.

16 Q. And it was a bridge to Revere?

17 A. Yes.

18 Q. Do you know the name of the bridge where this assault took
19 place, allegedly took place?

11:47AM 20 A. No.

21 Q. Now, in your October proffer, you said that Mr. Guzman was
22 driving a Toyota SUV. Do you remember saying that?

23 A. Yes.

24 Q. And you knew that pursuant to the proffer, you were
25 required to tell the government everything you knew?

1 A. Yes.

2 Q. All the details you knew?

3 A. Yes.

4 Q. Because you knew they'd be relying upon you, right?

5 A. Yes.

6 Q. And you told them that Mr. Guzman was driving the Toyota?

7 A. I said it was an SUV. Maybe it was a Toyota, maybe it was
8 a Honda, but it was definitely an SUV.

9 MR. LOPEZ: May I have the document camera for the
11:48AM 10 witness, your Honor.

11 Q. Now, I think you just said that it was a sports utility
12 vehicle?

13 THE INTERPRETER: I'm sorry.

14 Q. An SUV, a sports utility vehicle?

15 A. It was a closed vehicle like that.

16 Q. Was it an SUV?

17 A. Yes.

18 Q. Was it a Toyota?

19 A. I'm not sure if it was a Toyota or what, but it was
11:49AM 20 definitely an SUV.

21 Q. But you told the government in October, 2016, more than a
22 year from today, that it was a Toyota sports utility vehicle,
23 didn't you?

24 A. Yes.

25 Q. Do you recall what model SUV?

1 A. I don't know a lot about cars. I don't know what model
2 SUV it was.

3 Q. So you can't tell us whether it was a 4runner?

4 A. 4runner, no, I don't know.

5 Q. Or Rav4?

6 A. It was something like that. I don't know much about cars.

7 Q. A Highlander?

8 MR. POHL: Objection, your Honor.

9 THE COURT: All right.

11:50AM 10 Q. Do you know what model year it was?

11 A. No.

12 Q. Do you remember the color?

13 A. I recall it was like a cream color.

14 Q. Cream?

15 A. Yeah, like a tan, cream color.

16 Q. What if I told you Mr. Guzman didn't own a Toyota in --

17 MR. POHL: Objection.

18 THE COURT: Sustained, sustained.

19 Q. Now, do you know whether or not --

11:51AM 20 THE COURT: Mr. Lopez, let me caution you, okay.

21 You're not a witness.

22 Q. Do you know whether or not Mr. Guzman owned an Infinity in
23 2008?

24 A. I don't know.

25 Q. Now, in October, 2016, you said that this assault took

1 place under a bridge between East Boston and Winthrop, right?

2 A. Yes, at the entrance going towards Revere.

3 Q. The entrance, it was a bridge from East Boston to Winthrop
4 heading toward Revere?

5 A. No, there's a bridge that goes to Revere, and there's a
6 stop sign there, and then at the stop sign, you turn left and
7 if you go in there, you go towards Revere.

8 Q. But that's not what you told the government in October of
9 2016, was it?

11:52AM 10 A. I don't remember.

11 Q. Well, you told them that the assault took place under a
12 bridge between East Boston and Winthrop, right?

13 A. Winthrop is far away from where we were. I said it had
14 occurred at the exit where one takes -- goes towards Revere.

15 Q. Well, look at the document and see the last line that I've
16 highlighted.

17 THE INTERPRETER: Should the interpreter read it?

18 Q. Well, let me just -- and this is -- see on the first page,
19 it says, "October 14, 2016," and it talks about you being

11:53AM 20 interviewed, and there were assistant U.S. attorneys there and
21 FBI agents there and State Police there, and they were taking
22 down what you said, and Ms. Huacuja was interpreting what you
23 said.

24 MR. LOPEZ: And could you read him the line that I've
25 highlighted.

1 Q. Did you tell them that the assault took place under a
2 bridge between East Boston and Winthrop?

3 A. I said that the attack had been there at the exit between
4 East Boston and Revere.

5 Q. So, the agents took down their notes incorrectly?

6 A. I don't know.

7 Q. And Ms. Huacuja didn't interpret what you said correctly?

8 MR. POHL: Objection.

9 THE COURT: He cannot answer that question, as you
10 know, Mr. Lopez.

11 Q. Because you agree that the report says that you said the
12 assault took place under a bridge between East Boston and
13 Winthrop, right?

14 A. The attack occurred in the exit that goes towards Revere.

15 Q. Do you know how many bridges run or connect East Boston to
16 Winthrop?

17 A. I don't know.

18 Q. Do you know if there's more than one bridge that connects
19 East Boston to Winthrop?

11:56AM 20 A. I think there's only one.

21 Q. Do you know the name of the bridge that connects East
22 Boston to Winthrop?

23 A. No.

24 Q. Do you know the name of the street that connects East
25 Boston to Winthrop?

1 A. Bennington Street, I think.

2 Q. You're not sure?

3 A. No.

4 Q. Have you ever been on the bridge that connects East Boston
5 to Winthrop?

6 A. I know that the attack occurred by the station to Rhode
7 Island, the blue line.

8 Q. But you told the government in October of 2016 that the
9 assault took place under a bridge between East Boston and
10 Winthrop?

11:57AM

11 A. No, I said I had run -- I said that what had happened had
12 occurred at the exit from East Boston to Revere under a bridge.

13 Q. And you've just testified that there's only one bridge
14 between East Boston and Winthrop, right?

15 A. I don't know if it's to Winthrop or East Boston, that
16 bridge. I just know that it's by that station.

17 MR. LOPEZ: Your Honor, may I have the Elmo for the
18 witness.

19 Q. Sir, do you recognize that bridge?

11:58AM

20 A. You can't see the bridge here.

21 Q. You can't see that bridge, sir?

22 A. Yeah, I see that bridge.

23 Q. Do you know whether that bridge is the Saratoga Street
24 Bridge?

25 A. I don't know.

1 Q. Do you know whether that's the only bridge that connects
2 East Boston to Winthrop?

3 MR. POHL: Objection.

4 THE COURT: Overruled.

5 A. I don't know.

6 Q. And you would agree with me at least with respect to this
7 picture that underneath that bridge is only a body of water?

8 A. Yes.

9 Q. And you don't recognize that as the bridge from East
10 Boston to Winthrop?

11 A. I don't know.

12 MR. LOPEZ: Your Honor, may I approach?

13 THE COURT: Let me take a break. You mean approach
14 sidebar?

15 MR. LOPEZ: I was going to approach sidebar. We can
16 do it at the break.

17 THE COURT: Let's approach sidebar while we take our
18 break.

19 THE CLERK: All rise.

12:00PM 20 (THE FOLLOWING OCCURRED AT SIDEBAR:)

21 MR. LOPEZ: Your Honor, I'd like to admit this picture
22 notwithstanding the witness' reluctance to give me a
23 foundation. I believe you can take judicial notice of it.
24 It's a readily ascertainable fact, and under Rule 201, I think
25 we're able to do that. I think the jury should see.

1 THE COURT: Mr. Pohl.

2 MS. LAWRENCE: I don't know what the relevance of this
3 bridge is because the defendant hasn't given any foundation for
4 recognizing it as the bridge. But for what it's worth, I don't
5 think there's any dispute that that's where he says the assault
6 took place.

7 THE COURT: It's on the boarder of judicial notice
8 since I have no familiarity with the area, but it seems to me
9 you can stipulate like that so you don't have to call them.

12:01PM 10 MS. LAWRENCE: We don't want to do that. We only
11 object for relevancy.

12 THE COURT: I'll admit it with that objection.

13 (SIDEBAR CONFERENCE WAS CONCLUDED)

14 (A recess was taken.)

15 THE CLERK: All rise for the jury.

16 (JURORS ENTERED THE COURTROOM.)

17 THE CLERK: Thank you. You may be seated. Court is
18 now back in session.

19 THE COURT: Mr. Lopez.

12:16PM 20 MR. LOPEZ: Your Honor, I move to admit the photo.

21 THE CLERK: The next number would be 227.

22 THE COURT: 227. All right. It's admitted. 227.

23 (Exhibit No. 227 received into evidence.)

24 MR. LOPEZ: Can I show it to the jury, your Honor?

25 THE COURT: Yes.

1 Q. Sir, do you know whether or not that is the only bridge
2 that connects East Boston --

3 THE COURT: You've asked him that. It's really quite
4 repetitive.

5 MR. LOPEZ: That's fine, your Honor.

6 Q. Now, you also testified about an assault that took place
7 near the Maverick Station in East Boston?

8 A. Yes.

9 Q. And you participated in that attack by using a bat?

12:17PM 10 A. Yes.

11 Q. And I think you were asked on cross-examination whether
12 you took Exhibit 50 out of your house, meaning your machete?

13 A. I don't understand the question.

14 Q. Okay. Fair enough. I think you testified that you never
15 took the machete out of your house?

16 A. That machete over there?

17 Q. This machete, Number 50.

18 A. That machete was in the house.

19 Q. Did you ever take any machete out of the house?

12:18PM 20 A. No, what I had was a yatagan.

21 Q. So you didn't typically carry a machete with you?

22 A. No, that's why I had a yatagan like this.

23 Q. And do you remember during your proffer in October of 2016
24 telling the government that you typically carried a machete?

25 A. I carried a yatagan.

1 Q. But that you left it home that day because you were going
2 to a barbecue with your girlfriend?

3 A. I don't remember.

4 Q. You don't remember telling them that?

5 A. I don't remember.

6 MR. LOPEZ: Your Honor, document camera for the
7 witness.

8 Can you read that first sentence that's highlighted,
9 Ms. Huacuja?

12:19PM 10 THE INTERPRETER: Yes.

11 Q. Did you tell the government that you typically carried a
12 machete but that you left it home that day because you were at
13 a barbecue with your girlfriend?

14 A. Yes.

15 Q. Now, you testified that after the attack, you called
16 Mr. Guzman and told him what happened, right?

17 A. Yes.

18 Q. And you further testified that Mr. Guzman told you to call
19 a taxi?

12:20PM 20 A. Yes.

21 Q. And he would pay for it?

22 A. Yes.

23 Q. And you called a taxi?

24 A. Yes.

25 Q. And you told the taxi to take you to Eastern Avenue in

1 Chelsea?

2 A. Yes.

3 Q. Because you knew there was a car wash there?

4 A. Yes.

5 Q. And you testified that Mr. Guzman picked you up there?

6 A. Yes.

7 Q. You testified that Mr. Guzman picked you up in Chelsea,
8 right?

9 A. At the car wash.

12:21PM 10 Q. And I think you also testified that at the time of this
11 attack, Checha's house was in East Boston?

12 A. Yes.

13 Q. But you're certain that Mr. Guzman picked you up in
14 Chelsea?

15 A. Yes.

16 Q. No doubt in your mind?

17 A. No.

18 Q. And you're certain that you told Mr. Guzman about the
19 assault near the Maverick Station?

12:21PM 20 A. That was the reason I went to Eastern Avenue. I told
21 Playa that the area was hot and that the police had come to
22 Checha's house.

23 Q. Sir, let me ask you this. Are you as certain about
24 telling Mr. Guzman about the assault as you are about where he
25 picked you up that night?

1 THE INTERPRETER: I'm sorry, could you repeat the last
2 part of the question?

3 Q. Let me try to break it down. You're -- I'm asking you if
4 you're certain that you told Mr. Guzman about what happened
5 that night?

6 A. If I had not said anything to Playa, then why would he be
7 picking me up there?

8 Q. And I'm asking you if you're as certain about that as you
9 are about where he picked you up that night?

12:23PM 10 MR. POHL: I object to the form of the question, your
11 Honor.

12 THE COURT: It is argumentative, but I'll let it
13 stand.

14 A. That's why I went there, that's why I took a taxi because
15 he said he would pay for the taxi to Eastern Avenue.

16 Q. Well, sir, again, in your October 2016 proffer, you didn't
17 tell the government and the agents who were taking notes that
18 you were picked up by Mr. Guzman in East Boston -- I mean, in
19 Chelsea, were you? Did you?

20 A. (No response)

21 Q. And you didn't tell them about the telephone conversation
22 you had with Mr. Guzman about calling a taxi and him paying for
23 it and him coming to pick you up, right?

24 A. So how was I supposed to get to the car wash then?

25 Q. Well, you did tell the agents that approximately 1:00 a.m.

1 the following morning, you called Mr. Guzman to pick you up at
2 Checha's house, right?

3 A. At no time did I say to pick me up at Checha's house
4 because it was a hot area, the police were there. How would I
5 be telling him to go pick me up there?

6 Q. If you could just look at the document that I put on the
7 screen.

8 MR. LOPEZ: And Ms. Huacuja, if you could just read
9 the last sentence I've highlighted.

12:25PM 10 Q. Do you remember telling the government that at
11 approximately 1:00 a.m. the following morning, Hernandez Miguel
12 called Playa to pick him up at Checha's house?

13 A. No, I don't recall that. I recall that I told Playa what
14 had happened and that there were police there and that was when
15 Playa told me to call a taxi and that he could pick me up by
16 the car wash in Chelsea.

17 Q. But you would agree with me that the report that was
18 written by the agent who was at your interview in October of
19 2016 wrote down that you said that Playa picked you up at
12:26PM 20 Checha's house, right?

21 A. I never said to pick me up at Checha's house.

22 Q. And you knew during that proffer session that you were
23 required to tell the government everything you knew, all the
24 details you knew because you knew they would be relying on them
25 and you did not say in that proffer session that you told

1 Mr. Guzman what happened, did you?

2 A. How would I be going to Chelsea if I hadn't told Guzman?

3 In that case, I would have just gone home by myself.

4 Q. You did not tell the agents in October of 2016 when
5 telling them about the assault near Maverick Station that you
6 told Mr. Guzman what happened, did you?

7 A. Why would Playa then be paying for the taxi to go there?

8 Q. And you didn't tell them that Playa told you to take a
9 cab, right?

12:28PM 10 A. Playa told me to take a taxi and that he would pay for it.

11 Q. And you didn't tell the agents in October, 2016 that
12 Mr. Guzman said he would pay for the cab, right?

13 A. I went there because he told me to go there. He told me
14 to go there to the car wash and that he would be waiting for me
15 at the car wash.

16 Q. And you did not tell the agents in October 2016 that he
17 told you to go to the car wash, right?

18 A. I don't remember.

19 Q. And you didn't tell the agents in October, 2016 that

12:29PM 20 Mr. Guzman picked you up at the car wash, right?

21 A. I spoke with the agents, and I told them what had
22 happened.

23 Q. And you told the agents at approximately 1:00 a.m. the
24 following morning you called Playa to pick you up at Checha's
25 house, right?

1 A. What I told him was that there were police outside of
2 Checha's house knocking on the door, and that's when Playa told
3 me to take a taxi and go to the car wash.

4 Q. But you never told that to the government in October of
5 2016?

6 MR. POHL: Objection.

7 THE COURT: It's really quite repetitive. Let's move
8 onto a different topic.

9 Q. Now, you testified about some protection details that you
10 went on. Do you remember that testimony?

11 A. To protect what?

12 Q. Do you remember that testimony?

13 A. You aren't saying what I was protecting.

14 Q. I said you gave some testimony in this case about being
15 involved in protection details where Pelon was selling drugs to
16 undercover police?

17 A. Yes.

18 Q. And did Mr. Guzman know about that beforehand?

19 A. I don't know.

12:31PM 20 Q. Did Mr. Guzman refuse to go on those protection details?

21 A. He was asked if he wanted to participate, and he said no.

22 Q. So he was asked to join in the protection detail and he
23 refused?

24 A. Yes.

25 Q. Now, directing your attention to December 14, 2014, which

1 was the shooting that Vida Loca was involved in. I think you
2 testified that you knew before the shooting occurred that you
3 knew Vida Loca wanted to kill Mr. Ortiz?

4 A. We were there with Crazy when Vida Loca was calling at the
5 garage.

6 MR. LOPEZ: Could I have a second, your Honor?

7 Q. My question, sir, is did you know before Crazy gave
8 Vida Loca the gun that Vida Loca was going to shoot someone
9 that night?

12:33PM 10 A. That's why Vida Loca was calling Crazy. I didn't know if
11 he was going to shoot or not.

12 Q. Well, you did testify that he called Crazy and Vida Loca
13 was saying that the 18s were there again and to bring the gun
14 because he was going to shoot them?

15 A. Yes.

16 Q. So you knew before the shooting that it was Vida Loca's
17 intention to shoot someone?

18 A. It was Crazy's speaking with Vida Loca. I did not know if
19 Vida Loca was going to shoot him or not.

12:34PM 20 Q. So when you got out of the car, when you asked to be
21 dropped off, did you or did you not know that Vida Loca was
22 going to shoot someone that night?

23 A. I don't know. Only he knew.

24 Q. And you would agree that Mr. Guzman did not know
25 beforehand, right?

1 A. I imagine not.

2 Q. Now, you also talked about a stabbing in Highland Park,
3 and, trust me, I'm not going to go over what's already been
4 gone over, focusing only on Mr. Guzman. You testified that
5 after the stabbing you went to Mr. Guzman's house with Pelon
6 and Domingo, right?

7 A. Yes.

8 Q. And you testified that Mr. Guzman was upset because
9 Domingo was a kid and he wasn't a member of the Eastside
10 clique?

12:36PM

11 A. What he said was why had we brought Domingo over there,
12 that we shouldn't bring over boys that we don't know.

13 Q. Because you were exposing his home to someone he didn't
14 know, right?

15 A. I don't know. He opened the door for us because we were
16 MS dudes and I was wounded.

17 Q. And you testified that Mr. Guzman gave you some clothes?

18 A. Yes.

19 Q. And that he disposed of the shorts and shirt you were
20 wearing during the assault?

12:37PM

21 A. Yes.

22 Q. But in your July proffer to the government, you didn't
23 mention going to Mr. Guzman's house, did you?

24 A. I don't remember.

25 Q. And you didn't mention getting clothes from Mr. Guzman,

1 did you?

2 A. I spoke with the agents about that.

3 Q. On that date in July?

4 A. I don't remember if it was that dated, but I did talk to
5 them about it.

6 Q. And in July of 2016, when you were describing the stabbing
7 that you participated in in Highland Park, you didn't mention
8 getting clothes from Mr. Guzman that evening, did you?

9 A. I don't remember.

12:38PM 10 Q. And you didn't mention anything about Mr. Guzman agreeing
11 to dispose of your clothing, did you?

12 A. I don't remember that, but I do know that he told me that
13 he would take the clothes and throw them away because he worked
14 for the garbage.

15 Q. But you didn't tell the government that in July of 2016,
16 right?

17 A. I don't remember, but I did tell them.

18 Q. In fact, in your July, 2016 proffer, you told the agents
19 that you did not talk about the stabbing with Mr. Guzman,
12:39PM 20 didn't you?

21 A. How would I not have spoken if I went to his house?

22 Q. Well, let me show you your proffer report from July, 2016.

23 MR. LOPEZ: And, Ms. Huacuja, if you could read
24 the highlighted portion to Mr. Miguel -- Hernandez Miguel.

25 Q. Would you agree with me, sir, that that report says you

1 did not talk about the stabbing with Playa?

2 A. How would I not have spoken with Playa about the stabbing
3 if I went to his house and I was wounded?

4 Q. My question, sir, is does that report -- does that report
5 say that you did not talk about the stabbing with Playa?

6 A. I don't understand.

7 Q. Well, the report has been read to you?

8 A. Yes.

9 Q. And the report reads, "Hernandez Miguel" --

12:41PM 10 MR. POHL: Objection.

11 THE COURT: Overruled.

12 Q. -- "did not talk about the stabbing with Playa," right?

13 THE INTERPRETER: I thought there was an objection.

14 THE COURT: I've overruled the objection.

15 THE INTERPRETER: Sorry. Could you repeat the
16 question?

17 Q. Does the report say, "Hernandez Miguel did not talk about
18 the stabbing with Playa"?

19 A. The report says that.

12:41PM 20 Q. And Playa is Mr. Guzman?

21 A. Yes.

22 Q. Now, with respect to the East Coast Program, Mr. Guzman
23 didn't want to join the East Coast Program, right?

24 A. I don't know. It was the clique that had to decide that.

25 Q. Well, he was outvoted, right?

1 MR. POHL: Objection.

2 THE COURT: Overruled.

3 A. He was one of the runners.

4 Q. But he was outvoted?

5 A. Everybody votes.

6 Q. And the majority of the clique decided to join, right?

7 A. Yes.

8 Q. And that's because the majority rules in the Eastside
9 clique?

12:42PM 10 A. If someone says they don't want to join but the runners
11 say yes.

12 Q. Mr. Guzman didn't want to join, did he?

13 A. I don't know.

14 Q. And the attempted murder by Animal and Tigre in
15 December of 2015, Mr. Guzman didn't know about that beforehand,
16 did he?

17 A. I don't know.

18 Q. And jumping in the Animal. Mr. Guzman didn't want him
19 jumped in, did he?

12:43PM 20 A. I don't know.

21 Q. In fact, many of the clique members didn't want him jumped
22 in, right?

23 A. Then why was he jumped in? If the runners say we're not
24 jumping him, then they don't jump him, and that's that.

25 MR. LOPEZ: Well, if I could just have a second, your

1 Honor.

2 Q. You do recall meeting with the government in July, 2016?

3 MR. POHL: I object to this. We've been over this,
4 your Honor.

5 THE COURT: Overruled.

6 A. Yes.

7 Q. And do you recall telling them that many ESLs members
8 opposed jumping Animal into the clique but eventually the
9 clique beat Animal into the gang?

12:45PM 10 A. Checha was the one that was saying that no, he didn't want
11 Animal and all that because Checha wanted to bring a friend of
12 his in.

13 Q. But, sir, the question is do you recall telling the
14 government that many ESLs members opposed jumping Animal into
15 the clique but eventually the clique beat Animal into the gang?

16 A. If the runners say they're going to jump him, they jump
17 him.

18 Q. Sir, let me try this one more time. Did you tell the
19 government and its agents that "Many ESLs members opposed
12:46PM 20 jumping Animal into the clique but eventually the clique beat
21 Animal into the gang"?

22 A. Yes.

23 Q. And one of the people who was against that idea was
24 Mr. Guzman, right?

25 A. I don't know because if Guzman had spoken since he was a

1 runner, he would have been understood better. If he had spoken
2 up and said no, we're not jumping him, then perhaps he would
3 not have been jumped in.

4 Q. But that's not how it went down, was it?

5 A. No.

6 Q. He was outvoted?

7 A. I don't remember if he was outvoted or silenced.

8 Q. But you wanted the Animal into the clique, right?

9 A. He's a member that goes to barrio. It's not that I
12:47PM 10 wanted, because if I had wanted, I would have jumped him.

11 Animal said that he had spoken to Casper to run with the
12 clique. I didn't say to him come to my clique.

13 Q. Did you oppose him coming into your clique?

14 A. No.

15 Q. What about Pelon? Did Pelon want him in the clique?

16 A. No, I was with Pelon, and since Pelon was always with me,
17 sometimes we'd go to hang out with the dudes, and many dudes
18 met him in that way and started taking down his phone number.

19 That's how Pelon entered hanging out with the clique until one
12:48PM 20 day Casper told him at the garage that he was going to jump him
21 in, and Pelon said no, that he didn't want to get beaten up, he
22 didn't want to be jumped in.

23 MR. MURPHY: Objection, your Honor.

24 THE COURT: Let's stop there and put another question
25 to the witness.

1 MR. MURPHY: I'd ask for that testimony to be stricken
2 as non-responsive, your Honor.

3 THE COURT: Well, it wasn't responsive, but it was
4 also something we've been over multiple times, so I'll let it
5 stand.

6 Mr. Lopez.

7 MR. LOPEZ: I just need a second, your Honor.

8 Q. I'm about to move into some translations, assuming my
9 program opens. Now, Mr. Hernandez Miguel, you testified that
10 meetings of the clique were monthly?
12:50PM

11 A. Each month, but if there were problems in the clique, they
12 would be more often.

13 Q. And was that true in December of 2014?

14 A. I don't understand the question.

15 Q. In December of 2014, was the clique meeting on a monthly
16 basis?

17 A. It could be every month or every two weeks or even every
18 week.

19 Q. And isn't it true then in December of 2014, you had not
20 seen Mr. Guzman for a few months?
12:50PM

21 A. We hadn't spoken, but we would always see each other
22 including when we were hanging out.

23 Q. Do you recall a conversation with Caballo that you had in
24 December of 2014?

25 A. Yes.

1 Q. Where you asked Caballo when you last saw Mr. Guzman?

2 A. Yes.

3 Q. And do you recall saying that you hadn't seen Mr. Guzman
4 for about three months?

5 MR. POHL: Objection.

6 THE INTERPRETER: I'm sorry.

7 THE COURT: You're asking him --

8 MR. LOPEZ: If he had a conversation with Mr. Caballo
9 and if he recalls saying to Caballo that he hadn't seen
10 Mr. Guzman in about three months.

12:52PM

11 THE COURT: I'll let it stand.

12 Q. That you had not spoken with Mr. Guzman in about three
13 months?

14 THE INTERPRETER: I'm sorry, could you repeat the
15 entire question for the interpreter?

16 Q. Do you recall having a conversation with Mr. Caballo --

17 THE INTERPRETER: I'm sorry.

18 Q. Do you recall having a conversation with Mr. Caballo --

19 A. Yes.

12:53PM

20 Q. -- where you told him that it was about three months that
21 you had not spoken to Playa?

22 A. Yes, spoken on the phone. There was a period of time
23 where we hardly spoke on the phone, but we always saw each
24 other when we were hanging out.

25 Q. Okay. And are you saying that you didn't speak to him

1 when you went to meetings?

2 A. No, that perhaps I hadn't talked to him on the phone.

3 When you go to the meetings, of course, you see all the dudes
4 there.

5 MR. LOPEZ: Your Honor, can I approach for a second?

6 THE COURT: All right.

7 (THE FOLLOWING OCCURRED AT SIDEBAR:)

8 MR. LOPEZ: I have some tapes, some translations and
9 some tapes that I want to play, Mr. Pohl, but I'm having some
12:54PM 10 technical difficulties. For some reason, it was up and then it
11 went back down, so I can try to boot it back up or since we
12 have five minutes, I thought maybe --

13 THE COURT: You said your whole exam was an hour and a
14 half, and it's been nearly three hours, so how much more do you
15 have?

16 MR. LOPEZ: I just want to go through these tapes.

17 THE COURT: How long is that going to take assuming
18 the equipment is working?

19 MR. LOPEZ: Less than a half hour.

12:55PM 20 THE COURT: Mr. Pohl.

21 Let's do this, let's try to use the time --

22 Yes.

23 MR. POHL: Can I -- sorry, before we leave, let's see
24 how long that takes and without definitively committing myself
25 to this plan of action, if this goes the way that I think it's

1 going to, I would expect not to have redirect questions, so I'm
2 thinking -- I don't know if the Court has any interest and
3 inquiry whether they want to stay.

4 THE COURT: Let's here how it goes. Less than half an
5 hour is like on the order of 20 minutes.

6 (SIDEBAR CONFERENCE WAS CONCLUDED)

7 THE COURT: All right. Let's go.

8 MR. LOPEZ: With the Court's permission, I wanted to
9 begin -- I'm having technical difficulties, your Honor.

12:57PM 10 THE COURT: Why don't you try it without playing it.
11 Why don't you see what happens if you just ask the witness
12 about the word or the translation issue.

13 Q. Sir, do you remember having a conversation with Muerto in
14 July of 2015?

15 A. I spoke to myself?

16 Q. No, with Mr. Caballo?

17 A. Yes.

18 Q. And do you recall expressing frustration in your
19 conversation with him that the members of the Eastside clique
12:58PM 20 didn't want to do Mara things?

21 A. Yes.

22 Q. And when you said that the members didn't want to do Mara
23 things, were you referring to Mr. Guzman?

24 A. I don't remember.

25 Q. Now, directing your attention to December 6, 2015, do you

1 remember a conversation that you were having with Pelon and an
2 unidentified male regarding the clique again?

3 THE INTERPRETER: I'm sorry, what? I was speaking
4 while you spoke. I didn't hear the last part.

5 Q. Regarding the clique again?

6 A. I don't remember.

7 Q. Well, do you remember expressing to Pelon your
8 disappointment that people weren't doing anything for the
9 clique?

01:00PM 10 A. No, I don't remember.

11 Q. Do you recall telling him, "You're my friend, if you need
12 something, let me know what's up." Do you remember saying
13 that?

14 A. I don't remember.

15 Q. Do you remember saying to Pelon, "These dudes don't know,
16 these dudes are not in the Mara anymore, dude"?

17 MR. POHL: Objection.

18 THE COURT: Overruled.

19 A. I don't remember. How would they not be in the MS if
01:00PM 20 they're in there? If they go to the meetings and they go
21 everywhere, then they're gang members.

22 Q. My question, sir, is do you recall telling Pelon that
23 "These dudes don't know, these dudes are not in the Mara
24 anymore, dude"?

25 A. I don't recall. How would I say that they're not in the

1 Mara?

2 Q. So you're not saying you didn't say, you're just saying
3 you don't recall saying it, correct?

4 A. What I'm saying is how would I be saying that they're not
5 in MS if they have been jumped in?

6 THE COURT: How much more do you have, Mr. Lopez?

7 MR. LOPEZ: Not much more, your Honor.

8 THE COURT: Why don't we -- if it's all right with the
9 jury, why don't we stay here for a bit and see if we can't
01:02PM 10 finish this.

11 Q. Now, do you recall a conversation with Caballo where you
12 were discussing what some kids did to someone's house?

13 A. No, I don't remember.

14 Q. Do you recall discussing going up to shoot up Casper's
15 house?

16 A. I don't remember.

17 Q. And do you recall telling Caballo, "The same way we did it
18 that day"?

19 A. I don't remember.

01:03PM 20 Q. Well, do you recall being involved with vandalizing
21 someone's house previously?

22 A. No.

23 Q. Do you recall a plan that you and Pelon hatched to try to
24 motivate Mr. Guzman to participate in gang activities?

25 A. How would I be motivating somebody else to participate in

1 gang activities?

2 Q. Well, did you hear about the vandalism that occurred to
3 Mr. Guzman's home and car?

4 A. I never heard about that.

5 Q. In July of 2015 around the same time you were complaining
6 that they weren't doing Mara things?

7 MR. POHL: Objection.

8 THE COURT: Overruled.

01:04PM

9 A. I never heard about that. Playa never said anything, at
10 least not to me.

11 MR. LOPEZ: Your Honor, could I have the document just
12 for the witness.

13 Q. Do you recognize the word on this photo?

14 A. A word?

15 Q. "Escalade"?

16 A. No, I don't recognize any of this.

17 Q. Do you recall what kind of car Mr. Guzman was driving in
18 July, 2015?

19 A. I think it was an Escalade.

01:05PM

20 Q. A black Escalade?

21 A. I don't remember.

22 Q. And, in any event, you don't know anything about how that
23 car was vandalized?

24 A. How would I recall if I don't know anything about it?

25 Playa never told me anything about that, and I didn't hear

1 anything about it from a different dude or a different person.

2 Q. Let me show you another photo. Did you know anything
3 about how the car was vandalized?

4 MR. POHL: Objection.

5 THE COURT: He said he didn't know anything about
6 the -- that the car was vandalized. I'll allow it, go ahead.

7 A. How would I know?

8 Q. Did you -- strike that. Sir, these are my final questions
9 to you. Are you a father today?

01:07PM 10 A. Yes.

11 Q. How old is your son?

12 A. He's almost turning two.

13 Q. And are you hoping to be a part of his life soon?

14 A. Some day.

15 MR. LOPEZ: Thank you, no more questions, your Honor.

16 THE COURT: Any redirect?

17 MR. POHL: Mr. Hernandez Miguel, I don't have any
18 further questions for you. Thank you.

19 THE WITNESS: Thank you, your Honor.

01:07PM 20 THE COURT: All right. We will break there for the
21 day. Thank you, ladies and gentlemen, for allowing us to
22 finish that. Please remember all of my cautions not to discuss
23 the case among yourselves or with anyone else, and, again, let
24 me emphasize you're not to read or look at or listen to any
25 media reports, and the MBTA willing, we will start tomorrow at

1 9:00.

2 THE CLERK: All rise.

3 (Whereupon, the hearing was adjourned at 1:08 p.m.)

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C E R T I F I C A T E

UNITED STATES DISTRICT COURT)
DISTRICT OF MASSACHUSETTS) ss.
CITY OF BOSTON)

I do hereby certify that the foregoing transcript was
recorded by me stenographically at the time and place aforesaid
in Criminal Action No. 15-10338-FDS, UNITED STATES vs. HERZZON
SANDOVAL, et al., and thereafter by me reduced to typewriting
and is a true and accurate record of the proceedings.

Dated this 13th day of June, 2018.

s/s Valerie A. O'Hara

VALERIE A. O'HARA

OFFICIAL COURT REPORTER